



06-CV-05044-ORD

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MAR 01 2006	
CLERK U.S. DISTRICT COURT	
WESTERN DISTRICT OF WASHINGTON AT TACOMA	
BY	DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LAWRENCE BREED'LOVE,

Plaintiff,

v.

DENNIS JOHNSTON *et al.*,

Defendants.

Case No. C06-5044FDB/KLS

ORDER TRANSFERRING
MATTER

Plaintiff's complaint filed pursuant to 42 U.S.C. § 1983 alleges violation of his constitutional or federal rights based on allegations regarding classification and being placed in a two person cell. While plaintiff is a Washington State inmate he is being housed at the Oklahoma State Penitentiary. The policies and conduct at issue involve the state of Oklahoma and not the state of Washington.

Plaintiff names Dennis Johnston, who is situated in the Western District of Washington, but this defendant would most likely be dismissed from the lawsuit based on Monell v. New York City Dept. of Social Services, 436 U.S. 658, 694 n.58 (1978)(a defendant cannot be held liable under 42 U.S.C. § 1983 solely on the basis of supervisory responsibility or position), and Padway v. Palches, 665 F.2d 965 (9th Cir. 1982)(a theory of *respondeat superior* is not sufficient to state a § 1983 claim). Plaintiff also names numerous Oklahoma State Penitentiary employees.

Plaintiff has clearly filed this action in the wrong district. As plaintiff is a resident within the jurisdiction of the United States District Court for the Eastern District of Oklahoma and the issues in this


1 action deal with the policies and practices of the Oklahoma State Penitentiary the matter should be
2 transferred there pursuant to 28 U.S.C. § 1391(b) and 28 U.S.C. § 1404 (a).

3 The Clerk is directed to send a copy of this Order to plaintiff, and to send the Complaint and all
4 documents in support, along with a copy of this Order, to the District Court Clerk for the Eastern District
5 of Oklahoma at Muskogee.

6 DATED this 1 day of March, 2006.

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8 
9 Franklin D Burgess
United States District Judge

10 Recommended for entry this
11 24th day of February, 2006.

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13 Electronic signature block when signed
14 United States Magistrate Judge
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